

REMARKS/DISCUSSION:

This Response A is being filed within three months after the shortened statutory period for response that ended on June 7, 2007. Accordingly, a Petition for a Three-Month Extension of Time is made a part of the electronic filing transmission filed herewith.

By this Response A, claims 61-65 remain pending in this application. Applicants acknowledge the Examiner's indication of allowable subject matter recited in claim 65.

Amendment and/or cancellation of claims is not to be construed as a dedication to the public of any of the subject matter of the claims previously presented. Further, Applicant(s) reserves the right to prosecute the subject matter of such claims in continuation and/or divisional applications.

Applicant has carefully studied the outstanding Office Action. This Amendment is intended to be fully responsive to all points of rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application are respectfully requested.

Rejection under 35 U.S.C. § 112

Claims 61-65 stand rejected as being indefinite. The Examiner states that claim 61 is unclear from the specification how a handpiece is activated at a first power level. Further, the Examiner states that it is unclear whether this first power level is known as a high power level or a low power level when the handpiece is activating.

Applicant is uncertain what is meant by the Examiner stating as unclear "how a handpiece is activated at a first power level". The Examiner is first directed to paragraph [0028] of corresponding US patent publication 20040230214, which

incorporates by reference US patent application 09/693,549, now US patent no. 6,623,500. US patent '500 discloses the electrical connection between a switching mechanism and the handpiece and a generator. Therefore, the '500 patent makes clear how a handpiece is activated at a first power level.

Further, the specification is replete with multiple embodiments of switches for interfacing with the generator, which in turn delivers a drive current to the handpiece, thereby activating the handpiece. See, for example, paragraphs [0028], [0030] and [0035] of the corresponding publication.

With respect to the Examiner's comment that it is unclear whether this first power is known as a high power level or a low power level, Applicants question why this is really relevant. The first power level can be either a high power level or a low power level or any power level therebetween. See, for example, paragraph [0045]. To avoid any confusion, however, Applicants have amended claim 61 to replace the terms "high" and "low" with "first" and "second", respectively.

Rejection under 35 U.S.C. § 102(b)

Claims 61-64 stand rejected as being anticipated by U.S. Patent No. 5,383,855 to Nicholson et al. as noted in the office action.

Applicants respectfully transverse the Examiner's rejection of Claims 61-64 over Nicholson because, according to Applicant's understanding, the Nicholson reference neither teaches nor suggests the elements of the Applicant's invention. It is Applicant's understanding that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. See for example MPEP 2131.

Under MPEP 2131, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. The identical invention must be shown in as complete detail

as is contained in the claim, and the elements must be arranged as required by the claim. Under this standard, Applicant submits that Nicholson fails to anticipate claims 61-64.

For example, Nicholson does not disclose an ultrasonic surgical handpiece. Nicholson does not disclose a switch located on a housing. Nicholson does not disclose monitoring the pressure applied to the switch or activating (or deactivating) the handpiece based on the monitored pressure. Further, with respect to claim 64, Nicholson does not disclose blade or a switch generally aligned with the blade as the blade is rotated. Reconsideration is requested.

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Conclusion

Applicants submit that in view of the discussion, the rejection under 35 U.S.C. §§ 112 and 102 have been overcome and that the invention is now patentable over the cited prior. The Examiner is respectfully requested to reconsider all rejections and pass this case to issue.

Should any minor points remain prior to issuance of a Notice of Allowance, the Examiner is requested to telephone the undersigned at the below-listed telephone number.

The Commissioner is hereby authorized to charge any additional fees, which may be required to Account No. 10-0750/END0701/VEK.

Respectfully submitted,

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